

**RULES
OF
TENNESSEE DEPARTMENT OF HUMAN SERVICES
TENNESSEE BUSINESS ENTERPRISES**

**CHAPTER 1240-6-12
COMMITTEE OF BLIND VENDORS**

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1240-6-12-.01 PURPOSE AND FUNCTIONS.

- (1) The Committee is a group of licensed managers elected by their peers in different geographic regions of the state to represent the managers' interests in the operation of TBE.
- (2) The general purpose of the Committee is to aid and assist the Agency in the appropriate administration of the Randolph-Sheppard program in the state. It is the joint objective of the Committee and the Agency for the Committee to have meaningful participation with the Agency in making major administrative decisions regarding policies, standards, and procedures which affect the overall operation of TBE or which eliminate, modify, or impose additional requirements upon the licensed managers.
- (3) Pursuant to the provisions of 34 C.F.R. § 395.14, the Committee shall function as follows:
 - (a) Actively participate with the Agency in major administrative decisions, including rule, policy development, and program development decisions affecting the overall administration of the State's vending facility program;
 - (b) Receive and transmit to the Agency grievances at the request of managers and serve as advocates for such managers in connection with such grievances;
 - (c) Actively participate with the Agency in the development and administration of a State system of transfer and promotion of managers;
 - (d) Actively participate with the Agency in the development of training and retraining programs for managers; and
 - (e) Sponsor, with the assistance of the Agency, meetings and instructional conferences for managers within the State.
- (4) In addition to the functions listed above, the Committee shall:
 - (a) Participate with the Agency in the development of the budget for the Agency each fiscal year, predicated upon all of the financial information provided to the Committee throughout the year together with the Agency's projections, which shall be provided to the Committee in writing in July for the anticipated income and expenditures for the fiscal year in question.
 - (b) Make recommendations regarding the hiring of TBE management staff under the supervision of the Director in the State Office. The Committee may interview applicants for these positions and recommend its selection(s) to the Agency.

(Rule 1240-6-12-.01, continued)

- (5) The Committee may adopt those methods and procedures which it deems to be appropriate and necessary in addressing these functions, including the appointment of subcommittees as allowed by the Committee's by-laws.

Authority: T.C.A §§ 4-5-201 et seq., 49-11-601 et seq., 71-1-104; 71-1-105(12), 71-4-603, and 71-4-604(c); 34 C.F.R. § 395 et seq. and 34 C.F.R. § 395.14. **Administrative History:** Original rule filed August 30, 1978; effective November 29, 1978. Amendment filed May 25, 1983; effective June 24, 1983. Amendment filed December 11, 1986; effective January 25, 1987. (Formerly number 1240-6-11-.02). Repeal and new rule filed April 27, 1998; effective August 28, 1998. Repeal and new rule filed April 8, 2005; effective June 22, 2005.

1240-6-12-.02 AGENCY'S RESPONSIBILITIES TO THE COMMITTEE.

- (1) The Agency shall prepare written financial reports and file them with the Committee on a quarterly and annual basis, identifying revenues received from all sources, expenses incurred, and changes in fund balances for the set-aside account and for the unassigned accounts for the period or periods covered by the reports.
- (2) In order to insure the accuracy of the Ready-for-Employment List and to assist the Committee to fulfill its role of verifying seniority and certifications as part of the promotion process, the Agency shall provide to the Secretary and all other members of the Committee an updated list of all licensed managers with the pertinent information at the regularly scheduled quarterly meetings.
- (3) If the Agency is considering a major administrative decision, written notice shall be provided to the Committee of the anticipated change at least twenty-one (21) days prior to participating with the Committee regarding the decision. Conversely, the Agency shall always welcome recommendations from the Committee relative to major administrative changes.
- (4) After affording the Committee the time and opportunity for meaningful participation with the Agency, but when complete agreement is not achievable and a decision needs to be made, the Agency has the ultimate responsibility for the administration of the program. The Agency shall make the final determination and notify the Committee of its action in writing. This notification shall clearly state the basis for the decision and indicate the reasons for not adopting the recommendations of the Committee.

Authority: T.C.A §§ 4-5-201 et seq., 49-11-601 et seq., 71-1-104; 71-1-105(12), and 71-4-604(c); 34 C.F.R. § 395 et seq. and 34 C.F.R. § 395.14. **Administrative History:** Original rule filed May 25, 1983; effective June 24, 1983. Amendment filed December 11, 1986; effective January 25, 1987. (Formerly number 1240-6-11-.02). Amendment filed March 10, 1989; effective April 24, 1989. Repeal and new rule filed April 27, 1998; effective August 28, 1998. Repeal and new rule filed April 8, 2005; effective June 22, 2005.

1240-6-12-.03 ELECTION OF THE COMMITTEE.

- (1) The full Committee shall be elected biennially in every odd-numbered year. Nominees for the Committee must be licensed managers who are either permanently or temporarily assigned to a vending facility. Only licensed managers who are permanently or temporarily assigned to a vending facility may vote for the nominees. No other requirement may be imposed upon managers seeking a seat on the Committee nor may any other requirement be imposed upon voters, except that nominees and voters must manage facilities in the same regions from which membership on the Committee is determined to be necessary. The number of Committee members from each region will be a result of a determined jointly by the Agency and Committee. The regions and the number of Committee members from each region will be jointly reviewed by the Agency and Committee once every five years. The configuration of the regions and the membership from each region are subject to revision. Current information regarding regions and Committee representation from each region may be found in the Operations Manual.

(Rule 1240-6-12-.03, continued)

- (2) The Committee representative(s) in each region shall call a meeting of all managers on or prior to April 15th in each odd-numbered year. The purpose of the meeting is to determine the names of the nominees who will be competing for the available Committee seat(s) in the upcoming election. The number of nominees is limited to twice the number of representative(s) designated for the region. If there are more nominees than allowed for a region, the managers in attendance at the local meeting shall vote to determine which nominees will be submitted to the state office. It is the responsibility of the Committee representative(s) from each region to submit the names of the nominees in writing to the Agency by April 30th so that the election process may be commenced.
- (3) After the Agency has received the names of the nominees, the ballots will be prepared for each region and sent only to permanently and temporarily assigned licensed managers in the region. The ballot will identify the region and all the names of the nominees will be listed. Additionally, space will be indicated and allowed for the names of write-in candidates, one for each seat available. The date when the ballots must be postmarked for return mailing shall also be indicated, which is thirty (30) days from the date of the original mailing.
 - (a) After the Agency has completed the preparation of the ballots, an auditor from the Division of Internal Audit shall review the ballots for each region and witness the process of sealing them in envelopes. The sealed ballot, in an envelope identified only as a "ballot", and a pre-addressed return envelope addressed to the Division of Internal Audit shall be sent to the managers by registered mail, return receipt requested. The process of depositing the ballots in the mail shall be the responsibility of the assigned auditor. In the event that a manager does not receive a ballot, the Agency will issue another, provided that information validating the non-delivery of the original ballot is received.
 - (b) After the expiration of thirty-five (35) calendar days from the date of the mailing of the ballots, a date and time will be set with the Division of Internal Audit for the counting of the ballots, so that the election process can be completed by June 20th. All candidates and the members of the Committee will be notified of the date and time, so that they may be present if they so choose. In addition to the personnel from the Division of Internal Audit, there shall be one Agency official available to witness the count.
 - (c) In the event of a tie vote for one or more seats, a run-off election will be held. New ballots will be prepared for the managers in the particular region. The same process as described in subparagraph (a) above shall be used, except that no write-in candidates shall be permitted. The ballots shall be mailed within five (5) working days from the original date of the counting of the votes. Ten (10) working days shall be allowed for the return of the ballots. After the expiration of fifteen (15) working days from the date of the mailing of these ballots, a date and time will be set with the Division of Internal Audit for the counting of the ballots and notification will be provided as described in subparagraph (b) above so that the run-off election can be completed by July 15th. If the run-off election does not change the result, the full Committee shall select one of the candidates as the winner prior to its July meeting.
 - (d) After the election is complete and the membership of the new Committee is determined, the official seating of the membership shall occur in the July meeting of the Committee after all business (old and new) has been transacted for the preceding fiscal quarter, and all other matters before the outgoing Committee have been addressed.
 - (e) An elected member of the Committee automatically vacates the seat if the manager leaves the region to assume the management of a different facility in another region. Additionally, the seat is lost if a manager's license is terminated or if the Committee determines that the manager is in violation of the by-laws adopted by the Committee. Under any of these circumstances, an election must be held in order to fill the vacancy. Within ten (10) working days of the

(Rule 1240-6-12-.03, continued)

occurrence which leads to the vacancy, the Committee shall call a meeting of all managers in the region to select nominees to compete for the available seat. Immediately upon receipt of the names of the nominees, which shall be within twenty (20) working days after the vacancy occurs, the Agency shall conduct an election in accordance with the provisions of subparagraph (c) above relating to a run-off election, except that write-in candidates shall be permitted.

Authority: T.C.A. §§ 4-5-201 et seq., 71-1-105(12), and 71-4-604(c); 34 C.F.R. § 395.14. **Administrative History:** Original rule filed April 8, 2005; effective June 22, 2005.

1240-6-12-.04 COMMITTEE MEETINGS.

- (1) The Committee shall have four quarterly meetings each year. The meetings are to be held in January, April, July and October. The time and place of these meetings are determined by a majority vote of the Committee. TBE management staff will attend each of these meetings to provide financial information, answer questions, orally submit a report regarding the Agency's activities during the preceding quarter, and advise the Committee of any future plans.
- (2) Pursuant to the provisions of the Committee's by-laws, special call meetings may be held under extraordinary circumstances which require emergency action by the full Committee that cannot be achieved by a telephone conference call.
- (3) All members of the Committee will be reimbursed for travel, lodging and meal expenses while on official Committee business in accordance with Tennessee Comprehensive Travel Regulations. Reimbursements will be paid if the appropriate travel claim is submitted within thirty (30) days from the date the expenses were incurred. Expenses for special call meetings cannot be paid unless prior approval is sought and granted for the meeting in question.

Authority: T.C.A. §§ 4-5-201 et seq., 71-1-105(12), and 71-4-604(c); 34 C.F.R. § 395.14. **Administrative History:** Original rule filed April 8, 2005; effective June 22, 2005.